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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
08/961,956	10/31/1997	JOSE SANCHO ROYO	B-3379-61628	8284

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EXAMINER

PASTERCZYK, JAMES W

ART UNIT	PAPER NUMBER
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1755

DATE MAILED: 03/10/2003

34

Please find below and/or attached an Office communication concerning this application or proceeding.

Office Action Summary

Application No.
08/961,956

Applicant(s)
Royo et al.

Examiner
J. Pasterczyk

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1755



-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136 (a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133).
- Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on Jan 14, 2003
- 2a) ☐ This action is FINAL. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11; 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 56-96, 98-108, and 110 is/are pending in the application.
- 4a) Of the above, claim(s) 94-96 and 98-107 is/are withdrawn from consideration.
- 5) ☐ Claim(s) _____ is/are allowed.
- 6) ☒ Claim(s) 56-93, 108, and 110 is/are rejected.
- 7) ☐ Claim(s) _____ is/are objected to.
- 8) ☒ Claims 56-96, 98-108, and 110 are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on _____ is/are a) ☐ accepted or b) ☐ objected to by the Examiner.
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
- 11) ☒ The proposed drawing correction filed on Jun 11, 2002 is: a) ☐ approved b) ☒ disapproved by the Examiner.
If approved, corrected drawings are required in reply to this Office action.
- 12) ☐ The oath or declaration is objected to by the Examiner.

Priority under 35 U.S.C. §§ 119 and 120

- 13) ☒ Acknowledgement is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
a) ☒ All b) ☐ Some* c) ☐ None of:
1. ☒ Certified copies of the priority documents have been received.
 2. ☐ Certified copies of the priority documents have been received in Application No. _____.
 3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).
- *See the attached detailed Office action for a list of the certified copies not received.
- 14) ☐ Acknowledgement is made of a claim for domestic priority under 35 U.S.C. § 119(e).
a) ☐ The translation of the foreign language provisional application has been received.
- 15) ☐ Acknowledgement is made of a claim for domestic priority under 35 U.S.C. §§ 120 and/or 121.

Attachment(s)

- 1) ☐ Notice of References Cited (PTO-892) 4) ☐ Interview Summary (PTO-413) Paper No(s). _____
- 2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948) 5) ☐ Notice of Informal Patent Application (PTO-152)
- 3) ☐ Information Disclosure Statement(s) (PTO-1449) Paper No(s). _____ 6) ☐ Other:

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1. This Office action is in response to the RCE and amendment filed 1/14/03 and refers to the final rejection mailed 7/8/02 in the immediate ancestor of this case.

2. The proposed drawing correction filed on 6/11/02 has been disapproved because it is not in the form of a pen-and-ink sketch showing changes in red ink or with the changes otherwise highlighted. See MPEP § 608.02(v). No copy of the red ink drawing corrections has been found in the file of this case despite careful searching. ✓

3. Claims 56-93, 108 and 110 are rejected under 35 U.S.C. 112, second paragraph, as being indefinite for failing to particularly point out and distinctly claim the subject matter which applicant regards as the invention.

Claim 110 is rejected under 35 U.S.C. 112, second paragraph, as being indefinite in that it fails to point out what is included or excluded by the claim language. This claim is an omnibus type claim. Applicant's arguments in the response of 1/14/03 fail to comply with 37 CFR 1.111(b) because they amount to a general allegation that the claims define a patentable invention without specifically pointing out how the language of the claims patentably distinguishes them from the references.

In claims 56, 57, 65, 66, 75 and 84, "linear cycloalkyl, linear aryl, branched cycloalkyl, and branched aryl" all make no sense since aryl groups cannot be branched themselves, nor does linear even apply to the class of group, or can a purely cycloalkyl group have branches nor does linear apply to the class of group.

In claims 56, 65 and 66, it is not clear what is meant by "according to a value of c".

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In claims 56, 65 and 66, defining G as being an atom selected from groups 15 and 16 of the periodic table and boron without requiring at least one of the G groups to be a cyclopentadienyl-containing group is contrary to the definition earlier in the claims that these compounds are necessarily metallocenes.

In claims 56, 65 and 66, defining $x + y$ to be 4 is contrary to the metal being either from group 3 or being a lanthanide other than cerium, since these metals can only be in the 3+ oxidation state in order to give an electrically neutral compound as these appear to necessarily be.

In claims 59, 77 and 86, in the second line of each, the siloxy group should have a subscript 3 after the R”.

In claims 57, 61, 62, 75, 79, 80, 84, 88 and 89, the variable R' is undefined.

In claim 61, insert --and-- before “propyl” in the penultimate line. Similarly in claims 79 and 88.

Claims 65 and 66 lack steps that include addition of the required cocatalyst. In the third line of step (a) of claim 66, it is not clear what is meant by “heterogenize”.

Claim 70 is merely a repeat of claim 58 and this fails to further limit it.

4. The text of those sections of Title 35 US Code not included in this action can be found in a prior Office action.

5. Claims 56-64 and 69-74 and 110 are rejected under 35 U.S.C. 102(b) as anticipated by or, in the alternative, under 35 U.S.C. 103(a) as obvious over any of Vega, Gila I, Antberg, or

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Patsidis as cited in and for the reasons of record given in paragraph 5 of the previous Office action.

6. Claims 56-65 and 69-74 and 110 are rejected under 35 U.S.C. 102(e) as anticipated by or, in the alternative, under 35 U.S.C. 103(a) as obvious over Gila II as cited in and for the reasons of record given in paragraph 6 of the previous Office action. The claims are read as product-by-process claims with the process being the combination of the metallocene with the support, the product reading on that presently claimed.

7. Claims 56-93, 108 and 110 are rejected under 35 U.S.C. 103(a) as being unpatentable over any of Vega, Gila I, Gila II, Antberg or Patsidis in view of Huh as cited in and for the reasons of record given in paragraph 7 of the previous Office action.

8. Applicant's arguments fail to comply with 37 CFR 1.111(b) because they amount to a general allegation that the claims define a patentable invention without specifically pointing out how the language of the claims patentably distinguishes them from the references.

Applicant's arguments do not comply with 37 CFR 1.111(c) because they do not clearly point out the patentable novelty which he or she thinks the claims present in view of the state of the art disclosed by the references cited or the objections made. Further, they do not show how the amendments avoid such references or objections. No amendments have in fact been made to the claims.

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9. Any inquiry concerning this communication or earlier communications from the examiner should be directed to J. Pasterczyk whose telephone number is (703) 308-3497. The examiner can normally be reached on M-F from 8:30 to 5 PM.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Mark Bell, can be reached on (703) 308-3823. The fax phone number for the organization where this application or proceeding is assigned is (703) 872-9310 for normal faxes, 872-9311 for after final faxes.

Any inquiry of a general nature or relating to the status of this application or proceeding should be directed to the receptionist whose telephone number is (703) 308-0661.


Mark L. Bell
Supervisory Patent Examiner
Technology Center 1700



J. Pasterczyk

3/4/03